Supreme Court, U.S.
FILED
05-9[illegible] JAN 4 - 2006
OFFICE OF THE CLERK

No.

In the

Supreme Court of the United States

Alexey Leonichev & Victoria Leonichev, – *Petitioners*

v.

US District Court, Central District of California – *Respondent*

US Court of Appeal for Ninth Circuit – *Respondent*

Valley Presbyterian Hospital – *Respondent*

On Petition for Writ of Certiorari
To The US District Court Central District of California
To The US Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Alexey Leonichev & Victoria Leonichev –
Plaintiffs – Petitioners (Pro Se)
5260 Corteen Place #3, Valley Village, CA 91697,
Phone/Fax: (818) 760-0882

QUESTION PRESENTED FOR REVIEW

1. Petitioners Alexey Leonichev & Victoria Leonichev seek **Writ of Certiorari** for purposes:

2. Petitioners pray before Supreme Court to Reopen Civil District Court Cases CV04-7066; CV04-10373 & CV05-725 and three Appeals 05-55145, 05-55404 & 05-55780 as **terminated without due process of Law: without Judicial dispositions**.

3. Petitioners pray before Supreme Court to **annul all filing** in District Court Cases CV04-7066; CV04-10373 & CV05-725 and Appeals 05-55145, 05-55404 & 05-55780 **filed by very single falsely appeared Defendant – illegal corporation Valley Presbyterian Hospital**, who represented by **illegally acting partnership** "Musick, Peeler & Garrett LLP"

4. Petitioners pray before Supreme Court to Enter Defendants' Defaults':

a) CV04-7066RSWL – Default, which occurred at 12:00pm on 09/14/04 against Defendant Valley Presbyterian Hospital;

b) CV04-10373SJO – Default, which occurred at 12:00pm on 01/11/05 against Defendant Valley Presbyterian Hospital;

c) CV05-725GPS – Default, which occurred at 12:00pm on 04/09/05 against Defendant Valley Presbyterian Hospital.

PARTIES

Alexey Leonichev & Victoria Leonichev	–	Plaintiffs - Petitioners (Pro Se)
US District Court, Central District of California	–	Respondent
Court of Appeal for Ninth Circuit	–	Respondent
Valley Presbyterian Hospital	–	Respondents

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1. OPINIONS & ORDERS BY LOWER COURTS

1.1 OPINIONS & ORDERS BY APPEALS COURT

(a) Unlawful termination of 12/21/05 of appeals cases 05-55145, 05-55404 and 05-55780 is not evidenced by any written disposition[1] (*provision Sec.4.5(a) General Orders of US Court of Appeals for 9th Circuit*)[1], so any reports (*official or unofficial*) of the **opinions and orders just do not exist** and therefore not included in undersigned petition. Moreover 9th Court of Appeals official web page: "*http://www.ca9.uscourts.gov/ca9/newopinions.nsf/04485f8dcbd4e1ea882569520074e698/6f829ff53802ca90882570dd007dddd9?OpenDocument*" – clear indicates: "**12/21/05 – NO OPINION FILED TODAY**"

(b) Three Docket records of 12/21/05 of termination of cases 05-55145, 05-55404 and 05-55780 are based just on unsigned[1] & uncertified[1] Memorandums that are **not binding precedents**[4]. Three weeks later (01/12/06) mentioned memorandums were supported by unsigned[2] papers headed "Judgment", but **without indication that those disposed by any judge**.

(c) Based on the all above conclusion can be made that appeals cases 05-55145, 05-55404 and 05-55780 terminated without any written disposition[1]: i.e. unlawfully.

[1] Sec. 4.5(a) General Orders of US Court of Appeals for 9th Circuit: "...the determination of each appeal, ... **shall be evidenced by a written disposition concurred in by a majority of the panel** assigned to act thereon... ...**The majority disposition shall be signed by all members** of the panel concurring therein, **or certified by one of the members** as having been concurred in by such members. Any separate concurring or **dissenting disposition shall be signed by the author or certified by one of the members of the panel** as having been prepared by the author thereof.

[2] Rule 36(a) FRAP: "A judgment is entered when it is noted on the docket. The **clerk must prepare, sign, and enter the judgment**..."

[3] Circuit Rule 36-3(a): "Not Precedent: Unpublished dispositions and orders of this Court are **not binding precedent**..."

[4] Sec. 4.3(a) General Orders of US Court of Appeals for 9th Circuit: "A **memorandum disposition cannot be cited as precedent**..

1.2 OPINIONS & ORDERS BY DISTRICT COURT

a) **Case CV04-7066RSWL**. After obstruction of Defendant's Default which occurred at 00:00am on 09/15/04, District Court case CV04-7066RSWL (*refers to appeal 05-55145*) unlawfully [6&7&8] terminated 01/03/05 by Deputy Clerk Madelina Guerrero, who has violated L.R. 58-4 [6&7&8] and made records #35 & #53 in civil Docket without due process of Law: without signed court order[6&7&8]. **Unsigned** Order (*docket entry #53*), is made on behalf of Judge Ronald S.W. Lew (*who at that time was already Defendant in related Case CV04-10373*) **instead of judge signature contains stamp**:

RONALD S.W. LEW

RONALD S.W. LEW
United States District Judge

b) **Case CV04-10373SJO**. Minutes of 01/24/05 by judge S. James Otero (*docket record #57*) indicates: "*The parties are advised that Defendant Valley Presbyterian Hospital's* ***Motion to dismiss action*** *for failure state a valid claim or, alternatively, request or more definite statement of claims, scheduled for hearing on February 7, 2005, is* ***taken under submission***. *Accordantly, the* ***hearing date is vacated***. *Order will issue.*" So, **hearing never happened**. On February 16, without hearing, Deputy Clerk "ir" has filed

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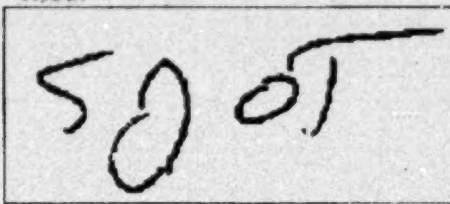
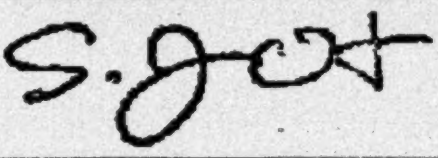
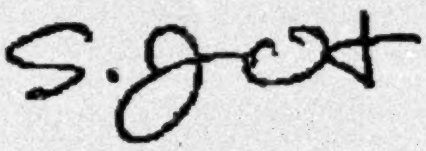
[6] ***L.R. 58-1.*** The entry of judgments and orders by the Clerk through notation in the appropriate civil docket...

[7] ***L.R. 58-4***. Entry of judgments or orders shall not be made by the Clerk until the Court has settled the form of judgment or order...

[8] ***L.R. 58-6***. **Notation in the civil docket of entry** of a memorandum of decision, an opinion of the Court, or a minute order of the Clerk **shall not constitute entry of judgment**...

unsigned Order to dismiss Case CV04-10373SJO (*docket record* #77). Very next day 02/17/05 somebody has **signed this already filed Order by false signature of** Judge S. James Otero. False signature dated one day later than Order was filed.

	**False Signature** from Order #77 Granting Defendant's Motion to Dismiss case
	True Signature of judge S. James Otero from Order #44 case CV04-10373
	**True Signature** of judge S. James Otero from Standing Order (Docket Entry #3)
	**True Signature** of judge S. James Otero from Order #7 Case CV 05-00725

c) **Case CV05-725GPS** was dismissed by **Minutes of never happened hearing** of 04/25/05 (*docket Entry #36*). prepared by unidentified "preparer" on behalf of Judge George P. Schiavelli without any court order. Calendar of Judge George P. Schiavelli **not indicated any hearing** on 04/25/05, so hearing of 04/25/05 just **never happened**. Judge George P. Schiavelli has **lost authority**[9] proceed with case CV05-725 since 03/03/05, when Plaintiffs have filed motion to disqualify him [provision Sec. 4.0 *(Motion to Disqualify Judge)* District Court General Order 224 [9]].

[9] Sec. 4.0 *(Motion to Disqualify Judge)* District Court General Order 224: "The **judge against whom the motion has been filed shall not proceed with the case until the motion has been heard and determined**."

Motion to disqualify Judge George P. Schiavelli was never heard and determined. Minutes of 05/02/05 prepared by unidentified Deputy (: (*see Appendix*) without court Order do **not constitute judgment** [8] and does not have any legal effect [8].

2. BASIS FOR JURISDICTION IN THIS COURT.

2.1 Undersigned Petition for Writ of Certiorari executed by Petitioners within 90 days period from termination of 12/21/2005 of Appeals 05-55145, 05-55404 & 05-55780.

2.2 Undersigned Petition for Writ of Certiorari (provision Section 1651(a) USC [10]) has purposes to compel District Court and Court of Appeals for Ninth Circuit to stop Obstruction of Justice and falsification of Judicial records and Enter Defaults, which occurred against Defendants in District Court cases CV04-7066RSWL; CV04-10373SJO & CV05-725GPS.

3. CONSTITUTIONAL & LAW PROVISIONS.

Petitioners Alexey & Victoria Leonichev claim reinstatement of their Citizen's Rights for Fair Justice secured by Clause 2 Article VI of US Constitution[11]. Deprivation of mentioned rights caused by obstruction of Justice, falsification of Judicial and avoids due process of Law, repeatedly committed by Court of Appeals for 9th Circuit and District Court of Central District of California.

[8] ***L.R. 58-6***. **Notation in the civil docket of entry** of a memorandum of decision, an opinion of the Court, or a minute order of the Clerk **shall not constitute entry of judgment**...

[10] Sec.1651 Title 28 USC. (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary ...

[11] Clause 2 Article VI of US Constitution: "Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding... ...all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution."

[12] Sec. 1506 Title 18 US Code: "**Whoever** feloniously steals, takes away, alters, falsifies, or otherwise **avoids any record**, writ, **process**, **or other proceeding**, in any court of the United States, whereby any judgment is reversed, made void, or does not take effect..."

4. STATEMENT OF THE CASE.

4.1 Undersigned Petition for Writ of Certiorari (provision Section 1651(a) USC [10]) has purposes to compel District Court and Court of Appeals for Ninth Circuit to stop Obstruction of Justice and falsification of Judicial records and Enter Defaults, which occurred against Defendants in District Court cases CV04-7066RSWL; CV04-10373SJO & CV05-725GPS.

4.2 As shown materials in the Section 1 of undersigned Petition, three District Court cases CV04-7066RSWL; CV04-10373SJO & CV05-725GPS and three Appeals 05-55145, 05-55404 & 05-55780 were unlawfully terminated without due process of the Law: without Judicial Orders or Judgments. In this unlawful way, District Court and Court of Appeals for Ninth Circuit protected Defendants in District Court cases CV04-7066RSWL; CV04-10373SJO & CV05-725GPS form Defaults, which occurred.

4.3 Case CV04-7066RSWL. Proof of Service (Docket Entry#4) by Registered California Process Server (J. Fitzpatrick, reg. #1606) clear shows that Valley Presbyterian Hospital (Defendant) has been served on 08/25/04 at 2:13 pm by Summons & Complaint. This **FACT** accepted by the Clerk and **never argued by Defendant**. At **10:34** am on 09/**15**/04 Plaintiffs have filed "**Plaintiffs' request to enter Default**" (*Docket #6*), accompanied by **Affidavit**, which **informed Clerk**, that "...**Defendant has filed no answer** or other responsive pleading effectively 09/**14**/04, so allowed for service **20 days period**, provided by Rule 12(a)(1)(A) Federal Rules of Civil Procedures, is **passed** since service of 08/25/04 of the Summons & Complaint. This **FACT** accepted by the Clerk and **never argued by Defendant**. So, **Defendant has failed to plead** during allowed for pleading time. Very next day (09/15/04), Defendant's Default was obstructed by Clerk of Court and Attorney **Kent Alan Halkett**. Docket Entry #9: **Notice of Deficiency** by Deputy Clerk Brent

Pacillas: "The **Clerk cannot enter requested Default** of Valley Presbyterian Hospital for the following reason(s): Request to enter Default and Motion to Dismiss were both filed on 9/15/04. **Request for default** was **filed at 10:34 am** and **motion to dismiss** was **filed at 3:41 pm**. So, on the 21st day (instead of allowed **20 days period**, provided by Rule 12(a)(1)(A) FRCP) and 5 hours after Plaintiffs' Request for Default, Clerk of District Court has accepted "Defendant's Motion to dismiss case" filed by attorney Kent Alan Halkett on behalf of unlawful partnership "Musick, Peeler &Garrett LLP".

4.4 As shown certified records on file, obtained from the California Secretary of State Bruce McPherson: Certificate of Registration of "Musick, Peeler &Garrett LLP" is false Certificate, because contain very single signature of very single authorized Partner Mr. R. Joseph De Briyn, so **not establishes any Partnership**. According Sec. 15501 California Corporation Code: "**A limited partnership is a partnership formed by two or more persons** ..." Name **"Musick, Peeler & Garrett LLP"** – violates Sec. 6132 [13] & Sec. 6158.2 [14] **California Business and Professions Code** because contains misleading information that it is partnership of Elvon Musick (1890-1968), Joseph D. Peeler (1895-1991) and Leroy A. Garrett (1906-1963) – people

[13] Sec. 6132 **California Business and Professions Code**. Any law firm, partnership, corporation, or association which **contains the name of an attorney who is disbarred**, or who resigned with charges pending, in its business name **shall remove the name of that attorney from its business name**, and from all signs, advertisements, letterhead, and other materials containing that name, within 60 days of the disbarrment or resignation.

[14] Sec. 6158.2 **California Business and Professions Code**. The following information shall be presumed to be in compliance with this article for purposes of advertising by electronic media, provided the message as a whole is not false, misleading, or deceptive: (a) Name, including name of law firm, names of professional associates...

who already died so many years ago. They died even **before** The State Bar of California's **Limited Liability Partnership program was established** (January, 1996). So, is Mr. R. Joseph De Briyn Partner himself or pretend to be partner of Elvon Musick (1890-1968), Joseph D. Peeler (1895-1991) and Leroy A. Garrett (1906-1963) – people who already died so many years ago? The answer is very simple: he utilizes Partnership of Musick, Peeler & Garrett as defense attorney who **defends offenders of American people**. So, the page "Toxic Tort" on the "Musick, Peeler & Garrett LLP" company website at http://www.mpgweb.com: "*...**our goal is to quickly dismiss** or otherwise resolve the action... ...MP&G's attorneys also have the expertise to **successfully defend** actions involving **products which** have allegedly **caused physical injury**, an **increased risk of cancer**, **immunological disorders**, **DNA damage** and/or **birth defects***". Are they doing this business legally? In the Cases CV04-7066; CV04-10373 & CV05-725 they did this illegally, more exactly – **Court did instead of them**. **District Court** acted as one of the "Musick, Peeler & Garrett LLP" employee, **Quickly & Successfully Dismissed** Cases CV04-7066; CV04-10373 & CV05-725 – **actions** involving products which have allegedly caused Physical Injury, an Increased Risk of Cancer, Immunological Disorders, DNA Damage and/or Birth Defects. Two Clerk Deputies "QUICKLY" dismissed Cases CV04-7066; CV04-10373 & CV05-725 even without one Judge's signature. Same thing happened in the Appeals Court, who also without Judge's signature dismissed three Appeals 05-55145, 05-55404 & 05-55780.

4.5 All mentioned above cases Defendants represented by "Musick, Peeler & Garrett LLP". All documents filed by Defendant bearing signature: "**Musick, Peeler & Garrett LLP**, by Kent A. Halkett". Mr. **Halkett never signed even one single document on behalf of himself**; he

pretends that acting on behalf of partnership of Musick, Peeler & Garrett. Probably it is so convenient and safe to be **employee of the dead people**.

4.6 District Court Cases CV04-7066; CV04-10373 & CV05-725 and three Appeals 05-55145, 05-55404 & 05-55780 not content any record that Mr. **Kent Alan Halkett** ever has filed Form AO 458 or another form of Appearance. All papers, filed by Mr. Kent A. Halkett is not certified "to the best of person's knowledge" as required Rule 11(b) FRCP [15] and **OVERLOADED BY FALSE**. For example, Notice of Motion to dismiss case CV04-7066RSWL falsely states: "The Motion is made following the conference of the Hospital's counsel and Plaintiffs pro se, pursuant to Local Rule 7-3, which took place on September 13, 2004" **Mentioned conference was never happened** and furthermore – was impossible on September 13, so far as on September 13 Defendant not appeared in the action yet.

4.7 It should be noted that utilization of dead souls for the legal operations – is not new invention. Such phenomena have long time historical experience and criticized so many times in literature [15].

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[15] "Dead Souls", *by N.Gogol, Russian writer, 1809-1852*

"But may I ask HOW you desire to purchase those peasants?" *asked Manilov*. "With land, or merely as souls for transferment--that is to say, by themselves, and without any land?" "I want the peasants themselves only," *replied Chichikov*. "And **I want dead ones at that**." "What?--Excuse me, but I am a trifle deaf. Really, your words soundmost strange!" "**All that I am proposing to do," replied Chichikov, "is to purchase the dead peasants who, at the last census, were returned by you as alive**." "So," went on Chichikov, "if no obstacle stands in the way, we might as well proceed to the completion of the purchase." "**What? Of the purchase of the dead souls?**" "Of the 'dead' souls? Oh dear no! **Let us write them down as LIVING ones, seeing that that is how they figure in the census returns**. Never do I permit myself to step outside the civil law, great though has been the harm, which that rule has wrought me in my career. In my eyes an obligation is a sacred thing. In the presence of the law I am dumb."